



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 28, 1998

Ms. Betty DeLargy  
Long, Burner Parks & Sealy, P.C.  
P.O. Box 2212  
Austin, Texas 78768-2212

OR98-2515

Dear Ms. DeLargy:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 119088.

The Texas Health Insurance Risk Pool (the "Risk Pool"), which your office represents, received a request for "a list of candidates, including the successful candidate," for the Executive Director position. In response to the request, you submit to this office for review the information at issue. You assert that the submitted information is "exempt from disclosure as 'personnel matters' under Section 552.102 of the Government Code."<sup>1</sup> We have considered the exception and arguments you raise, and have reviewed the information submitted.

Section 552.102(a) provides that information is excepted from disclosure "if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." The test to determine whether information is private and excepted from disclosure under 552.102 of the Government Code, or under the common-law privacy aspect of section 552.101 of the Government Code, is whether the information is (1) highly intimate or embarrassing to a reasonable person *and* (2) of no legitimate public concern. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 930 (1977); *Hubert v. Harte-Hanks Texas Newspapers Inc.*, 652 S.W.2d 546 (Tex. App.--Austin 1983, writ ref'd n.r.e.).

Section 552.102(a) may be invoked only when information reveals "intimate details

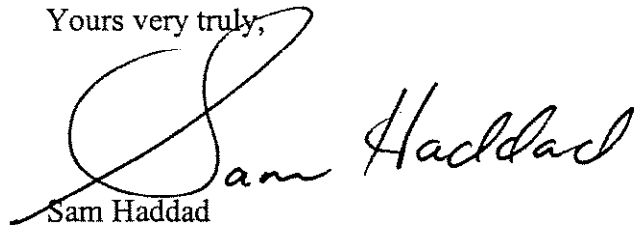
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<sup>1</sup>Although you also assert that "many applicants requested confidentiality," we note that information is not confidential under the Open Records Act simply because the party submitting it to a governmental body anticipates or requests that it be kept confidential. Open Records Decision No. 479 (1987).

Section 552.102(a) may be invoked only when information reveals "intimate details of a highly personal nature." Open Records Decision No. 315 (1982). The information at issue does not comport with this standard. Moreover, the public has a legitimate interest in this information. The requestor is seeking only a list of names of applicants for public employment. This office has determined that names of applicants for positions are not protected from disclosure under common-law privacy under sections 552.101 or 552.102. Open Records Decision No. 455 (1987) (section 552.101 does not protect applicant or employee's qualification for position, names and addresses of former employers, dates of employment, types of work, salary amounts, reasons for leaving, information about character references, and job performance or ability). Therefore, the submitted information is not excepted from disclosure pursuant to section 552.102, and should be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Sam Haddad". The signature is fluid and cursive, with a large loop at the beginning of the first name.

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/mjc

Ref.: ID# 119088

Enclosures: Submitted documents

cc: Mr. Richard L. Durbin  
505 W. 7<sup>th</sup> Street, No. 319  
Austin, Texas 78701  
(w/o enclosures)